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Argent Group Ltd.

Via Facsimile

May 4, 2004

Docket Management Facility
U.S. Department of Transportation
400 Seventh Street, S.W.
Washington, D.C. 20590-0001

USCG-2003-14472-42
MARAD-2003-15171-42

Re: Comments on Dockets USCG-2003-14472 and MARAD-2003-15171

Dear Sir or Madam:

We are writing to provide comments on the Joint Notice of Proposed Rulemaking issued on February 4, 2004 by the U.S. Coast Guard and the U.S. Maritime Administration (the "Joint Notice").

Argent Group Ltd. is a financial services firm that has been involved in over $6.5 billion of vessel financings. The firm specializes in the maritime industry and is designing or arranging or has structured the financing for 13 new ocean-going vessels that are currently under construction in U.S. shipyards or that have recently delivered from U.S. shipyards. Since the passage of the Coast Guard Authorization Act of 1996, we have been involved in the construction programs of major energy companies that have relied upon the coastwise lease finance provisions for ships to be used primarily in the transportation of proprietary cargoes.

The coastwise lease finance law has created financing options for companies involved in the construction of ships in U.S. shipyards. By expanding the financing options available to such companies, the coastwise lease finance law has made U.S.-built ships more affordable, enabling shipbuilding projects to better compete against other projects for company resources. At the same time, the law has not jeopardized the control of coastwise-eligible vessels by U.S. citizens, given the requirement that coastwise vessels must be demise-chartered to an entity qualified to engage in the coastwise trade. The ordering of new vessels in U.S. shipyards certainly was clearly one of the principal objectives of the law, and that objective has been fulfilled.

The Joint Notice threatens certain of the construction programs with which we have been involved. In these instances, the parties involved relied on the coastwise lease

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finance law as enacted by Congress and signed by the President, and such reliance was reasonable because we believe the statute is very clear on the basic issues. Moreover, the Coast Guard approved the transactions and vessel documentation and, in certain cases, the U.S. Maritime Administration approved the formation of Capital Construction Fund Agreements and the inclusion of vessels on schedules to such agreements, again based on the coastwise lease finance law.

The Final Rule promulgated by the Coast Guard on February 4, 2004 is not consistent with the statute in certain respects. It establishes conditions that are not contained in or required by the coastwise lease finance statute. The reasons for those conditions appear to be based on a portion of the legislative history of the coastwise lease finance statute, but even the legislative history does not support the conditions as written in the Final Rule.

For example, there is nothing in the legislative history to suggest that companies that have lease-financed vessels primarily engaged in the transportation of proprietary cargoes should have any problem qualifying under the law. Rather the legislative history provides that "Groups primarily engaged in the operation or management of commercial foreign-flag vessels used for the carriage of cargo for unrelated third parties will not qualify under this section." Yet there is no distinction in the Final Rule between groups operating vessels primarily carrying "cargo for unrelated third parties" and groups operating vessels primarily carrying proprietary cargo.

Similarly, neither the coastwise lease finance statute nor the legislative history suggests that time charters of lease-financed vessels to affiliates of the owner should be restricted. We have been told that Congress actually considered such restrictions and did not include them in the final legislation. This suggests that time charters should not be restricted, particularly when the time charterers are using the vessels primarily to carry proprietary cargo.

We are also concerned about the Coast Guard's proposal to restrict the grandfather provisions retroactively to February 4, 2004. Companies which we have represented have undertaken financing arrangements for periods of time that are considerably longer than three years. Those companies will incur significant penalties and costs if those arrangements are not allowed to stand. More importantly, the vessels will have to be sold to a qualifying citizen who may be in a position to take advantage of the circumstances. This is not fair, but worse, it is inconsistent with the objective of the coastwise lease

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finance statute which was to make foreign capital available to finance coastwise vessels. Without lower-cost foreign capital, the Jones Act itself could be threatened.

A limited grandfather restriction would be particularly unfair and inappropriate in the case of companies that have entered into capital construction agreements with the U.S. Government which, of course, are designed to promote the construction of vessels in the United States. Those companies should not be forced to restructure and possibly terminate their CCF Agreements with significant costs when they complied with the law and Coast Guard precedents and obtained MARAD approval of their building programs.

For the foregoing reasons, we respectfully urge the Coast Guard and MARAD not to restrict time charters of lease-financed vessels and not to limit the "grandfather" provision contained in the Final Rule. We further urge that a carve-out be included if the grandfather provision is restricted for vessels that are listed on a schedule as part of an approved capital construction fund program so that such vessels are grandfathered for their useful lives.

Thank you for the opportunity to comment.

Sincerely,

Martin E. Gottlieb
President